

**Imprimatur,**

**GILB. IRONSIDE**

**Vice-Can. O X O N.**

**DECEMBER**

**20. 1688.**

**By**

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A

# SERMON

P R E A C H E D

Before the

UNIVERSITY

O F

OXFORD

*December 4. 1687*

C O N C E R N I N G

*The Obligation of Oaths.*

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By HENRY HELLIER, M. A. of C. C. C.

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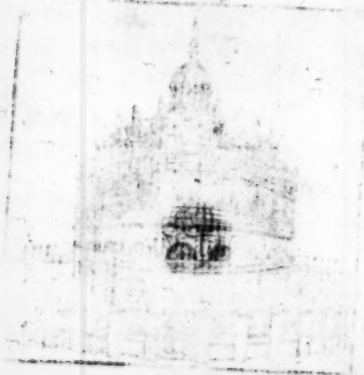
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HENRY MILLER M.A. of C.C.C.



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*Psalm 15. 4. He that sweareth to his own hurt and changeth not.*

**T**HIS Psalm contains a *Dialogism*; or discourse of the Royal Prophet within himself where he first proposeth a question, and afterwards gives the answer. The question is in the first verse. *Lord, who shall abide in thy Tabernacle? who shall dwell in thy holy hill?* that is, who shall be accounted worthy to be a member of thy faithfull congregation here, and to be admitted into thy presence hereafter? The answer contains first in general the whole Duty of man, *he that* v. 2 *walketh uprightly and worketh righteousness, &c.* afterwards divers duties in particular; and among the rest, this of constancy and faithfulness in keeping those promises which we have confirmed by an Oath. And because the greatest temptation to the breaking of Oaths proceeds from feare of some temporal damage, or prospect of some worldly advantage; therefore it is said *he that sweareth to his hurt and changeth not.* We are also hereby to understand, that since the Psalmist hath given us this for a distinguishing Character of those persons who are to enter into the kingdom of heaven, it is implied that such as have not this qualification, shall not enter therein, and consequently he shall be excluded, who

recedes from those Oaths which he hath once made, though the performance of them proves never so much to his disadvantage.

But 'twill be to little purpose to press and inculcate the necessity of performing any duty, unless in some measure we may be satisfied to what cases the duty doth extend: and this will be more especially needful in discoursing on our present subject, which doth contain so great variety of doubts, occasioned by the particular circumstances of some, and by the wanton inventions of others, that one cannot easily comprehend them all, or place them in a right order, or reduce them to certain rules. Nevertheless I shall endeavour to lay down such principles, as we ought for the most part, in the resolution of particular difficulties, to be directed by. And to that end I shall enquire

1. In what cases an Oath doth oblige, and whether it may be taken for a general rule, that he who hath sworn *to his neighbour*, must not *change*.

2. According to whose sense it doth oblige. For unless that be cleared, it will be sometimes difficult for a man to know himself, more difficult for any one else to know, whether he hath done according to his Oath or no.

3<sup>d</sup>. And lastly after having considered in what cases, and according to whose sense an Oath is obligatory, it will be fit to shew, what it is to be so obliged, how great the obligation of an Oath is, that we may both see with how much justice the keeping of Oaths is required of all those who do expect Gods favour, and may also be our selves induced to answer  
this

this part at least of the Character of a righteous man. He that *swaureth* to his *burt*, or as some have it, he that *swaureth* to his *neighbour* and *changeth* not.

1. And first to understand when an Oath doth oblige, we may observe, that all, or at least the principal cases are reducible to 3 heads, forasmuch as they concern the matter of the Oath it self, the person swearing, or the person to whom 'tis sworn.

1. There are divers cases relating to the matter of the oath it self. It may be impossible, or unlawful, or an obstacle to a greater good, or purely indifferent, or a thing concerning which a man doth doubt whether it be lawfull or no.

1. No oath can oblige to that which is impossible. And therefore if the matter were impossible at first, it was indeed a fault to sweare, but it can be no fault afterwards not to do that which cannot be done. If the matter at first were not, but now is become impossible by the swearers fraud or negligence, then it is to be look'd upon as omitted when 'twas possible. But if it be so now by some unlikely and unforeseen accident; as for instance; if a man promise to another the use of his house which afterwards happens to be burnt down, no man will think the promiser at all blameable in such a case, although the promise were never so solemnly confirmed by an oath.

2. No oath can oblige to that which is unlawfull. And therefore if a man hath not sworn in *justice*, that Jer. 4. 2. is to say, if he hath sworn to any unjust or dishonest action, he is not obliged to perform according to what he hath sworn; neither can he so perform it as to make it true.

He is not obliged to perform according to what he hath sworn. Because no man can by breaking one of the Commandments, acquire to himself leave, much less an obligation to break any of the rest. The rules of morality are established by God for ever, and some of them so necessarily consequent upon his attributes, as not to be changed by himself; much less can they be made of none effect by any contrary act of ours. Besides, it were a contradiction for a man to be bound in duty to do contrary to his duty; that the same thing should be commanded and prohibited by the Laws of God at the same time; that a man should be obliged under penalty of damnation to do that which God under the same penalty hath already forbidden. If these things were reconcileable, it would be an easy matter for any man to reverse all the Commandments, and oblige himself to live in a continual breach of them, seeing he could by once swearing make himself to have what Laws he pleased, or to have no Laws at all, either about oaths or any other matter. Therefore a man is not obliged to perform according to such an oath.

Neither can he so perform it as to make it true. For it is false as soon as it is taken. It is just as if he had sworn to that which is impossible. *Id quisque potest facere quod potest jure facere.* That which a man cannot lawfully do, he cannot do. He can only add one sin to another, and increase his guilt by thus endeavouring to take it off. As did *Herod* in beheading *John the Baptist*.

And from hence we may know how to make a right

right judgment of divers cases wherein particular virtues are concerned; cases, wherein an oath would otherwise engage men to do acts contrary to Piety, or Justice, or Charity, or Humanity, or the like; for example:

Piety requires us not only in general to keep the Commandments of God, but more especially to observe and attend his immediate worship. No oath therefore can oblige a man not to worship God, or not to worship him in a due manner, or not to worship him at fit times, or to pay that worship or that honour to any other which is due only to him.

Justice requires that we do not invade the rights and privileges of other men. And therefore

If a superior hath power of commanding our service in any matter, we may not without his consent engage our selves in another that is inconsistent; or, if we do, 'tis still to be understood with this *proviso*, as long as he gives us leave. The power of a King cannot be limited by any oath of his subject, or of a Father by that of his Child, or of a Master by that of his Servant. Thus in the 30<sup>th</sup> of Numbers, *the vow of a woman being in her Fathers house in her youth, is of no effect if her Father disallow her; and the vow of a wife is of no force, if her husband disallow her*; because it were absurd to think that they by swearing or vowing could limit their superiors power, or give away that which was not at their own disposal. If therefore any Superior by Statute hath reserved to himself, or by his Prerogative may claim, or time out of mind hath had, the disposal of



any place or office by vertue of his own power; then no inferiours oath can be of sufficient force and validity to prejudice that power. But if there never were any such power, or if that power were given away, or if that Superior hath consented to Statutes, and in them to oaths whereby men have sworn to certain things which are limitations of the said power; then the matter of the oaths being just, and charitable, and encouraged by a lawfull Authority, there being besides the inferiours oath the superiours own *act*, there is perhaps scarce any pretence upon which such an oath can be accounted invalid, or supposed to imply any farther limitation.

And as an inferior cannot limit his superiours power by swearing, so neither can a superior that of his inferior, nor any man the rights of any man, because it is still contrary to justice.

For the same reason of justice no one can invalidate an oath by swearing quite contrary to what he swore before, or to what he barely promised; for a promise is a transferring of right from our selves to him who receives the promise; we cannot therefore dispose otherwise of a thing that is so transferred, or load it with other conditions then at first were made; for in so doing we endeavour to give away that which is none of our own.

Also oaths contrary to Charity or Mercy or Humanity are void; as if a man should sweare not to give any thing to his Children, not to alter his Will, not to give Alms to the poor, never to lend mony, never to become surety for any man; and afterwards reasonable and pious motives to do such actions do  
offer

offer themselves, it would be many times an uncharitable, an unmercifull, an inhumane practice to keep such kind of oaths.

And thus are we to determine in other cases of the like nature; taking it always for granted, that no oath can oblige any person to commit a sin, or privilege him from keeping the Commandments of God: according to that old rule; *Juramentum non potest esse vinculum iniquitatis.*

A 3<sup>d</sup>. case taken from the matter of the oath, is, when it hinders a greater good. And here we are first of all to presume, that a man was not by virtue of any precept obliged to that good, for then this would be the same case with that which went immediately before: and in the next place we may affirm, that a man ought not to recede from his oath for the sake of doing a greater good; for example; if any swear to another that he will give him freely a sum of mony, he must not afterwards bestow that on the poor, upon pretence of doing a greater good: because as was said before, a promise is a transferring of right; and though to give alms be a virtuous action, yet we are not allowed to take them out of other mens goods.

But what if in the 4<sup>th</sup> place the matter be purely indifferent? There can be here no occasion of difficulty, except the matter be also of no moment. And he is undoubtedly guilty of great irreverence towards God, that will cite his name to a trifle. But yet if any man be in such unhappy circumstances, if he hath taken an unlawfull oath, to do an indifferent, but not an unlawfull thing, he is obliged to per-

perform according to what he hath sworn; & though the Schoolemen think not, because the matter it self is but small; yet when a man hath bound himself by an oath, it becomes a great matter; and so much the greater crime it is to do contrary to such an oath, by how much the easier it was to have made it good.

5. If the matter of the oath be such, as causeth a man to doubt whether it be lawful or no, in that case, say some, *juramentum valeat quantum valere potest*: For the reverence due to an oath, he ought, if he cannot be otherwise well convinced, rather to perform; according to that maxime, *in dubiis pars tutior*. As if, first to swear to, and afterwards to do an unlawfull thing, were not as great a crime, as simply to break an oath. A doubtfull conscience is unfit for action; and the best advice at such a time is, that a man should use due diligence to informe and satisfy himself, seeing God doth not require a duty of any man, which he hath not provided methods for him to understand. And so much for the cases which concern the matter of the oath.

2. There are others relating to the person that sweares. And here whensoever we shall determine that an oath doth not bind, 'twill be for want of the persons rightly understanding that he made one.

If any one therefore swears, that knows not what an oath is, or is not *doli capax*, either by reason of his years, or because he is a naturall fool, or mad-man, we cannot then suppose that he is obliged to rules.

If a man be disturbed with anger, or overtaken with



with drink, we are then to consider, whether it were in so high a degree, as to take away the use of his reason; which if it plainly appear, either from the temper of the man, or from the gross absurdity of the matter, then he is not bound; but otherwise, namely, if the person understood what he was about, and the matter be tolerably just and equall, it is hard to allow his case to have been so bad, as that he shall not be afterwards obliged to perform.

And much after this way should we answer in the case of fear, or any other passion. For it is a principle of very ill consequence to hold, that oaths and promises are of no force which are extorted by fear, though it be limited, as Civilians will have it, to fear that may fall *in constantem virum*. For, suppose a man justly condemned to dye, should offer money to save his life, and swear to the payment of it; shall not he be afterwards obliged, because of his fear? what would become of the oath of allegiance and some Tests, if all men might be excused from keeping them, who were induced to take them for fear of losing offices and places of trust, money, or credit, or in some places life it self? Perhaps it will be said, that this ought to be understood of a fear unjustly caused. But who shall be judge of that? Besides, injustice in the imposer will not excuse perfidiousness in the taker. The passion is neither greater nor less for being unjustly caused. And no man of a constant mind, will suffer any force, whether just or unjust, to prevail so far upon him, as to induce him to swear to that, which he either cannot or will not perform. And therefore if a man, to save his life, swears,

even to thieves and robbers, to do any thing that is not otherwise unlawfull, his fear is no sufficient plea to recede from such an oath, because it was not so great, as to deprive him of the use of his reason, or to hinder him from making a prudent choice.

And for the same reasons it is not lawfull, because an oath is unjustly imposed, to use *equivocations* or *mental reservations*, which are as bad as downright falsehoods, as will appear anon.

I shall say no more at present, of any other cases relating to the person that swears, because the doubts which may arise from his erring about the substance, or the causes, or the consequences of his promissory oath, are more fit to be placed under the 2<sup>d</sup>. general head of this discourse, when we come to shew in what sense an oath ought to be taken.

3 A third sort of cases are taken from the person to whom the oath is made. Perhaps he is an Idolater, an Heretick, a Rebel, a professed Enemy, a Perjured person, or such like. And these circumstances we need not consider apart, but may give a general rule once for all, that none of them can be a sufficient excuse for any man to break his oath. because by the Law of Nations, oaths ought to be inviolable; and therefore every one, how false soever he is, or may have been himself, yet so long as he is partaker of human nature, retains a right to be faithfully dealt withall by other men. Otherwise, indeed, there could be no such thing as a Law of Nations; there could not be any secure dealing, either in time of War or Peace, between so many Nations

tions and people of different inclinations and Religions. And if it should once happen, that their quarrels brake out into a War, it would be impossible ever to make articles of agreement. It is not therefore enough for us to say, that a perfidious person deserves no better usage then himself will afford to others; unless we can also shew, that we have a right to inflict such a punishment upon him. And such right we can never obtain, by reason of his breaking his faith, with others, with our selves, or with God. Not because he hath broken his faith with others, unless it will follow also, that we may rob or steal from, or commit any other trespass upon any man that hath ever done the like to others. Nor because he hath broken his faith with us. 'Tis true indeed, that if the promise be made to him under a condition, and that condition be not performed, the promissory oath can no longer oblige, because no oath obligeth to more then it implies. Other his perfidiousness cannot afford us any such privilege; both, because it is not lawfull to punish one sin by the commission of another, and also, because we have renounced all exceptions taken from his former faults, by swearing to him, and making a contract with him. And, if it be sufficient to allege, that he hath broken his faith with God, we may by the same reason pretend to a liberty of breaking our faith with any man, that hath ever broken his *Baptismal* vow. Concerning the oath of *Josua* and the *Princes of Israel* to the *Gibeonites*, it is very well known, that they held themselves with the greatest exactness bound to keep it, though it was obtained from them by fraud;

that God himself shewed he approved the keeping of it in *Josua*, by an eminent victory, and revenged the breaking of it upon *Saul* by 3 years Famine, and the death of seven of his Sons. And yet these *Gibeonites* were Heathens, Idolaters, worshippers of Devils, persons, whom God had given the *Israelites* leave utterly to destroy. For I call that leave, and not a command of God to destroy the seven Nations. *Deut.* 20. 17. and Mr. *Selden* in his book *de jure naturali & gentium juxta doctrinam Hebræorum*, says, the antient *Rabbins* did so expound it. Or, if a command, it was not absolute, but conditional. Which seems to be intimated in *Jos.* 11. 19 and 20. Where it is said; *There was not a City that made peace with the Children of Israel, save the Hivites the inhabitants of Gibeon; all other they took in battle. For it was of the Lord to harden their hearts, that they should come against Israel in battle, that he might destroy them utterly, and that they might have no favour, but that he might destroy them, as the Lord commanded Moses.* By which it seems, that there had been no necessity of destroying the rest of those Nations, had they offered themselves voluntarily to become Tributaries and Servants, and had not *their hearts* been hardened to come against *Israel* in battle. Moreover, if Gods command had been absolute, we must either suppose some private Revelation to recall it, which is unlikely, seeing it is not that, but the oath that is in express terms insisted upon; or else the oath of *Josua* and the *Princes of the Congregation* had been unlawfull as to the matter of it, because contrary to the express precept of God, and therefore ought not  
to

to have been kept, by whatsoever means they had been induced to take it. Whence it would follow, that *Josua* in sparing them had been guilty of a grievous crime; and that the destruction of the *Gibeonites* by *Saul* had been a commendable action, which yet God Almighty was so displeased with, as to punish it after the manner already spoken; and that we may be assured it was for that, and no other cause, he saith expressly, 2. Sam. 21. 1. *It is for Saul and for his bloody house, because he slew the Gibeonites. Now the Gibeonites* (as it follows, in the next verse) *were not of the Children of Israel, but of the remnant of the Amorites; and the Children of Israel had sworn unto them.* It is not any conversion of the *Gibeonites* to the *Jewish* Religion, or any revocation of Gods command, if such there were, but the oath only, that is here, and in other places mentioned, as the ground of the obligation which the *Children of Israel* lay under to spare them. Whereby the Scripture sheweth us, that oaths and promises, to what people or Nation soever they be made, ought inviolably to be kept.

And so much may suffice for cases of the third kind, which are taken from the person to whom the oath is made.

Hitherto nothing seems to hinder, but that we may take it for a general rule, that he who hath sworn to his neighbour must not change; for in the first rank of cases, where the matter was unlawfull or impossible, the oath was irrecoverably false; and in the second rank, where the person was not in a condition to understand what he was about, no oath can properly be said to have been taken at all.



In all other cases an oath doth oblige; it obligeth (I say) to as much as it implies; but that we may know, how much that is, let us consider in the 2<sup>d</sup>. place

l 67. ff.  
de regu-  
lis juris.

2. In what sense an oath ought to be taken. In order whereunto we cannot use a better rule, then the antient *Civilians* give us for the interpretation of every doubtfull speech. *Quoties idem sermo duas sententias exprimit, ea potissimum excipiat, quæ rei gerendæ aptior est.* That sense is to be taken which is most suitable to the business men are about. And this rule, as in all other dealings and contracts, so especially where there is the intervention of an oath, we ought religiously to observe; that neither our neighbours may be imposed upon, nor the Holy Name of God abused, to malicious and deceitfull, or to vain and insignificant purposes. And since an oath was designed, as we find it *Heb. 6. 16.* To end controversies, and to make men confide in one another, it ought to be interpreted in such a sense as is most likely to answer that end.

For which reason we may not precisely, without limitation, accept the sense of the swearer, or of the Imposer, or that which the words of the oath will bear.

1. Not of the swearer; because he may equivocate, or use *mental reserves*; he may (as the *Jesuites* commonly allow) say the words of the oath, and not intend to swear, or intend to swear, and not intend to be obliged; which kind of excuses, seing they quite pervert the end of any oath, are never to be permitted. But let us speak something of them severally.

1. No man can save himself harmless by *equivocation*; that is to say, by swearing to what he knows to be false, in the sense of him to whom he sweareth, but true in a private concealed sense of his own. For, as in the case of lying, it is not misconceiving the matter our selves, but speaking contrary to our knowledge in order to deceive others that makes the fault; so it is in the case of perjury. We speak not to our selves when we swear, but to others, for the satisfaction of whom the oath is made. And therefore if there be any such thing as perjury, that man is guilty of it, who swears to that, which he knows or thinks to be false, in the sense wherein he would have the imposer to understand him.

2. And the same reason will condemn *mental reservations*, when a man keeps something in his mind, which added to a saying, otherwise false, and considered together with it makes a true speech, only we may add, that this kind of practise, if we may be allowed to make a difference, seems more destructive of society, and more opposite to the end of an oath, then *equivocation*; because *equivocation* may be hindered, where due care and diligence is used that there be no ambiguity of words; but *mental reservations* can never be prevented. For example; a man swears he used no *equivocation*, or *mental reservation*, or *secret evasion*, meaning, he useth none *that* he is willing to make known. These things, if they would serve to excuse a man, were enough to banish all oaths and promises from humane Society, and to bring it to that pass, that no man should be trusted ever the more because of them.

There are some who can be contented to admit of swearing to *Statutes* with such *reserves* as these; so far as they are agreeable to the *Laws of God and of the land*, saving all oaths by me formerly taken, and such like. But if this be understood of secret *reservations*, it will give way to all manner of fraud. What oath can then be too hard for men of this persuasion to swallow? A man may swear to the *Alcoran*, so far as it is agreeable to the word of God, and the *Laws of the land*; or take a quite contrary oath to morrow to what he hath sworn to day. And although it be true, that no oath can bind us any farther, then the rules of justice and honesty will allow us to go; yet it will not follow from hence, that a man may swear to what he thinks unjust, using for a private *Salvo*, so far as it is agreeable to the rules of justice. For he that takes an oath, doth thereby own the performance of it, so far as he knows, to be lawfull, and agreeable to those rules, which he is otherwise bound to observe and keep.

Nevertheless, where some particular reservations are publickly known and granted, by them that do require, as well as by them that do take the oath, it is as lawfull to use them, as if they were expressly set down in the words of the oath it self.

3. What if a man swears, and doth not intend to swear? We must acknowledge, that there is something of intention always required to an oath. Wherefore he cannot be said to have sworn, who only reads over the words, to acquaint himself or another person with it, or he that in swearing personates



sonates another man, or he that knoweth not what an oath means, or he that hath brought himself to such an ill habit of swearing, that he cannot tell whether he swears or no. But when a man speaks the words of an oath, to the intent that he may be thought to swear, by the person to whom the oath was to be directed, whatever else his intentions were, he hath undoubtedly sworn; because he hath invoked the Holy Name of God, to procure himself to be beleived.

4. It would be likewise a frivolous excuse, for any one to say, *he intended to sweare, but did not intend to be obliged.* Such a pretence is grounded on this argument; that no oath can oblige beyond the *intention* of him that swears, and by consequence, he that swears having no *intention* to be obliged, cannot be bound to any thing at all. But in answer to this, I shall shew hereafter, how far, in the interpretation of an oath, we are to regard the *intention* of him that swears: for the present it may suffice to say, that if a man intends to swear, the oath in its own nature includes an obligation, whether he intends to be obliged or no. And such as this, or else the very same with it, is their opinion who will have a man to be free from the obligation of his oath, if at the time of taking it he did not *intend to keep it*. Which is in plain terms as much as to say, that a man is not perjured, or is not unfaithfull, because he is: for what is perjury, or what is unfaithfulness, if that be not, for a man to swear to do a thing, and at the same time intend to do quite contrary? what can be more absurd then to suppose,

that both those sins may be taken off, by adding a third sin of Hypocrisy? But as we may not, without limitation, accept the sense of the swearer, so neither

2. Are we always to interpret an oath according to the sense of the Imposer. It being unreasonable to give him so great a power over another mans conscience, as to oblige him, especially when the oath is deceitfully worded, to a sense very different from, if not directly opposite to, what he promised before God to do, and apprehended to be the Imposers meaning; an eminent instance whereof there was, in the *Solemn League and Covenant*. If therefore, *bona fide*, he that takes the oath, thinks it means one thing, and he that requires it, means another; the swearer is not obliged to go beyond his own meaning; because no act can bind a man that is not voluntary, and a mans will cannot reach to an unknown object.

But the case is otherwise, when the error is *extrinsecal* to the substance of the oath; yea, though it give cause to the oath it self, which, unless that error had intervened, would never have been made. Nor will it suffice for a man to say, if he had known this or that he would not have sworn: for he should have considered that before, and expressed it as a condition; which if he neglect to do, he is bound to as much as his oath contains: thus the oath of *Josua* held good, though the error, that the *Gibeonites* came from a *far Country*, gave cause to that oath, which ratified a League, that would hardly else have granted to a people which was so numerous, and possessed so considerable a part of the Country.

If a man erreth about the consequences of his promissory oath, such as we have not already taken notice of, are twofold, either hurtfull to himself, or to the person to whom he hath sworn.

The hurt of the swearer is not sufficient to deprive another man of that right, which the promissory oath hath conferred upon him; and though the damage may possibly be so great, that the other ought in equity to release him, (too rigorous exacting of justice, being sometimes no better then an injury) yet it is not fit that he who is a debtor to another man, should, upon pretence of some private inconveniences, have power to release himself.

But if the act be manifestly hurtfull to the person for whose sake the oath was taken, (manifestly, I say, to exclude certain possible or probable harms, such as temptations to sin, which every thing in the world may at sometimes afford) then an oath is invalid; not because of the swearers error, but by reason of the other mans power of relinquishing or commuting that which is his own, which if he either wanted opportunity, or were not otherwise in a condition expressly to do, it is to be presumed that the oath did at first imply an exception to all such accidents; it being contrary to all equity, that a man who owes another a good turn, under pretence of exactness in keeping his promise, should have liberty to do him harm; which would be in truth a kind of perfidiousness, however it might seem to be a performance of that which was promised.

But here perhaps it will be asked, seing it is acknowledged,

known, that if a man doth not rightly understand the imposers meaning, as to the contents of the oath, he is not bound; what if a man who is made a member of a certain Society or *Corporation*, swears duly to observe all the Laws and Customs thereof, or uprightly to discharge some particular office therein, when perhaps he doth not know all the Statutes belonging to such a *Corporation*, or all the duties incumbent upon such an office? I say, upon this occasion two questions may be asked. 1. Whether every one that hath thus sworn is guilty of a rash oath, as having sworn to more than he knows? 2. Whether an oath taken in words so comprehensive, doth oblige to the performance of every Statute? To resolve which questions we are to consider, what is either already expressly declared to be, or may otherwise justly be presumed to be the intention of the *Legislator*, and apply that to both of them.

As to the first of these; doubtless the intention of the *Legislator* was not, that every one should know, what those Statutes were before-hand, it being neither likely that they should be known, nor yet expedient that they should be communicated to every person; therefore the obligation was never intended, to lye upon any man farther, than those Laws and Customs with common diligence should come to his knowledge. It is farther observable, that he who finds any of them afterwards greivous to be born, may by relinquishing his privilege become free from his obligation. So that here is no

snare

snare laid for any mans Conscience; 'tis in every mans power to save himself from the guilt of perjury if he will; consequently this cannot upon the account of a mans not knowing Statutes before hand, be reputed a rash oath. Again though it be said, that a mans will cannot reach to an unknown object, yet it sometimes is sufficient if it be known in generall, though his understanding doth not reach to all the several parts of it. Thus when a man swears to obey another *in licitis & honestis*, it is not requisite, that he should know particularly every thing that will be commanded; so long as his oath contains a limitation, whereby he is secure from doing that which is unseemly or unlawfull.

In order to give answer to the 2<sup>d</sup>. query, how far such an oath doth extend? we may be assured that the principal intention of every *Legislator* is, to preserve his *Corporation* that he makes Laws for. Those Statutes therefore of which we are in our Consciences perswaded, that they are of so great moment, as that the Constitution, Peace, Welfare, Honour and Security of the Society to which we have sworn, do depend upon them; we are certainly obliged unto by virtue of our oath; as also to those particular Laws to which we have sworn by name, and which we are said in expresse terms by virtue of our oath to be bound to observe. But as for other ordinances which are of smaller concern, it is sufficient, where we keep not them, if we be content, without opposing of Authority, to undergoe the penalty annexed; which is sometimes full as beneficial to the Society, as a punctual observance of Statutes; which is the

declared.



*Vide ex-  
plicationem ju-  
ramenti  
post Sta-  
tuta U-  
niversit.  
Oxon.*

declared sense of divers *Legislators*, particularly of ours of *this place*; and which is among most persons very well known.

Again whereas 'tis possible, that among a great number of Statutes one may be found to contradict another, every one that hath sworn to observe the said Statutes, cannot for that reason be said to be guilty of perjury, as having sworn to both parts of a contradiction; because the latter Statute, if made by equal Authority, doth invalidate the former, so that no man is any longer obliged to observe the former Statute, or any other that is, either expressly, or by consequence, either by writing, or by a long prevailing custom made null.

And this explication will appear to be more reasonable, if we consider

3<sup>d</sup>, That we are not always to follow that sense which the words of the oath will bear. And this is easily deducible from what hath been already spoken; namely, that the end of an oath ought chiefly to be considered in its interpretation; so that the words are no otherwise to be observed, then as they are subservient to the principall design, according to which a man is obliged to perform, although the words according to *Grammatical* construction doe not imply so much as was intended, or although they may be taken in different senses. In vain therefore did those men think to avoid breach of faith, who having made a truce for several days fell upon their enemies quarters after Sun set, pretending that the nights were not included, and the *Roman* Legate, who having promised *Antiochus* half the

the ships divided every ship in half, and so made them all useles for a Sea fight; and the *Council of Constance*, that burnt *Hus* after promise of safe conduct, unless they have a better excuse, then we read of in *Molanus*, namely, that *it was promised he should come safe thither, but not that he should go safe hom again.*

*Molanus  
de fide  
haereticis  
servanda  
lib. 2  
cap. 3.*

To conclude then what hath been said upon the second general head. So far as the swearer apprehends the meaning of him that imposable, or of him that requireth the oath and supplies the place of the imposer, or of him for whose sake the oath is made, (for the case is alike in all) an oath binds. So that partly the sense of the swearer may be said to be followed, in as much as 'tis required, that he should rightly understand the matter; partly that of the imposer, in as much as it is [not any construction must serve, that the swearer can put upon it, but that which he was in his conscience perswaded to be agreeable to the imposers meaning. But not at all the signification of the words, unless it be as they do effectually explain the intention of the one to the other.

By what hath been said, we may be directed in the resolution of such difficulties as ordinarily do occur upon this subject, without being inquisitive after every little nicety, without meddling with every shift or evasion that hath been invented by some men, who seeme to have made it their business to entangle their duty, and render it unintelligible. And we find *Prov. 20. 25.* that *it is a Snare to a man to devour that which is Holy, and after vows to make enquiry: to bring upon himself those sacred*  
and

and venerable obligations, and afterwards, instead of performing according to them, to seek ways how to be *dispensed* with, or how to come off. *After vows to make enquiry.* Solomon seems to account it a fault, after a man hath taken an oath or vowed a vow, so much as to *enquire* whether he ought to keep it or no. For though it sufficiently appears from what hath been already spoken, that in some circumstances a man may have a very just cause, to consult and to advise both with himself and others, about the performance of his oath; yet over much forwardness in that kind, doth generally betoken too great an inclination to cavill at, to retract, and go off from what one hath done. When a man is in good earnest resolved to be honest, it is possible indeed that he may, but he seldom doth need much *enquiry* to find the way. Fidelity is very plain and easy, and the knowledge of it sufficiently planted in every mans nature. A faithfull man hath a *sure and straight path to walk in*, needs not turn *to the right hand, or to the left*, it is not his business to do, and undoe, to say and unsay, to equivocate, and to falsify; he is not forced, as Solomon calleth it, *to pervert his ways*, to turn and wind himself every way for fear of being discovered. He doth hardly stand in need of any thing else in this matter, that hath an honest mind and a good conscience to direct him. And therefore I shall insist no longer upon cases, but proceed to shew in the

Prov. 10.  
9.

3<sup>d</sup>. and last place how great the obligation of an oath is. An oath is a solemn invocation of God to witness what we say, by his favour and mercy to us,

if.



if it be true, or by his vengeance upon us, if it be false. So that every one who makes not good what he hath sworn, doth denounce a curse against himself, either in general, or in some particular concern. For the curse is not always general, but may be limited. For example; when men swear by Creatures, (as was the custome among the antients, to swear by those especially that were most near and dear to them) then they desire of God, according as they speak true or false, a signal favour or an exemplary punishment in those Creatures. But even this swearing is by God; it is he that is called upon, as a faithfull witness of, and a just judge between truth and falsehood, a defender and maintainer of the one, an avenger and punisher of the other. Whence that is abundantly verified which our Saviour saith *Mat. 23. 21 and 22. Who so shall swear by the Temple, sweareth by it, and by him that dwelleth therein; and he that shall swear by Heaven, sweareth by the Throne of God, and by him that sitteth thereon.* For in such oaths a man desireth of God, as a punishment if he sweareth falsely, that God will not hear him in his *Temple*, or that he will not hereafter bring him to, or in the mean time send down blessings upon him from Heaven. And from that clause of ours, *so help me God and by the contents of this Book*, we may see what great care we ought to take, to perform according to what we have sworn, because otherwise we renounce that upon which alone we can depend for Salvation, we shut our selves out from that common interest which God Almighty doth allow us in his mercy and favour, of which the *Gospel* is the sole conveyance.

Again, whereas an oath duly and considerately taken, implies a pious acknowledgment of Gods cheit Attributes and prerogatives, his omnipresence, omniscience, omnipotence, justice and veracity; and consequently is a part of Religious worship, and as such enjoyed by God *Deut. 6. 13. Thou shalt fear the Lord thy God, and serve him, and shalt swear by his Name*; the not performing according thereunto, argues a disowning the forementioned Attributes, and is the greatest profanation of Gods worship.

It is an high advantage and privilege which God vouchsafeth to us, in that he gives us leave upon urgent and weighty caules to make use of his glorious Name, as a seal to confirme the truth of what we assert. If therefore we take it up to avouch a falsehood, we are exceedingly ungratefull, we falsify that Seal, we profane that dreadfull Name, we apply that which is most sacred to the worst of uses.

If we hope after so great a crime to escape unpunished, we do in effect ascribe that to God which is the Character of the Devil, that he is the Patron and encourager of lyes; whereby we make our selves, as the Scholemen rightly observe, guilty of a worse fault then theirs was who Crucified our Saviour. Bonds and imprisonment, and death it self are all to be preferred before sin; they have often been inflicted upon good men; they have not seldom been made choice of by them to avoid sin; he therefore that endeavours to bring God to share with him in his sin, *puts him to a greater shame*, offers a more hainous affront and indignity to Christ, then if he *spit in his face*, or put him to any bodily pain.

This

This sin contains something in it peculiar which makes repentance more difficult to be practised, pardon more hardly to be obtained, then in most others. For with what face can a man invoke that Mercy which he hath expressly renounced? how just is it, that he who hath thus disclaimed Gods favour, should be forsaken when he stands most in need of it? that he who hath thus abused the Holy Name of God, should not be heard when he *calletb* upon that Name? although it be otherwise, as Solomon telleth us, *a Prov. 18. strong Tower, the righteous runneth unto it, and is safe.*<sup>10.</sup>

For these and the like causes, an oath hath generally been looked upon as a sufficient assurance and confirmation of the truth of any matter; and men have sometimes been tried by their own oaths, whether they have been guilty of capital crimes or no: as if it were beleived, that he who had committed the most hainous offenses otherwise, would yet hardly venture upon that, though it were to save his life; could not possibly incur it, without rising to an higher pitch of wickedness then he was at before.

I shall not at large describe all the several inferior sins which are included in the breach of a promissory oath; but shall only in breif take notice, that if truth requires us to be sincere in our promises, and afterwards carefull to perform that which we have promised; if a faileur in either of these parts be blameable, because it is a falsehood, because it is contrary to the ends of speech, because it is a deceiving of our neighbour and a breach of trust, because it is an infringement of justice to resume that

right which we had before transferred, because it is a violation of friendship, and an absolute contradiction to that golden rule, of *doing to others as we would they should do to us*; (every man being apt to complain that he is hardly dealt withall, whensoever any by such artifices hath circumvented him;) and lastly, if *Faith*, that is, fidelity in our pacts and promises be, as our Saviour tells us *Mat. 23. 23.* one of the most *weighty matters* of the Divine Law; what then will our condition be, when to all these obligations, we have added the highest that can be laid upon us, so that by breaking them we not only deserve, but in expresse terms invoke the vengeance of God, we do as it were engage God in honour, to vindicate his Name and his attributes from the abuses and contempts that we have put upon them.

He that thus seriously considers what an oath is, cannot surely beleive that any man is above the obligation of it. So that that is an unsufferable maxime said to be used in the *Court of Rome*; *non esse Regum aut Magistratum, sed mercatorum stare juramentis*. It is not a thing confined, either to one sort of men, or to mankind only, but reacheth even to the Angels,

*Dan. 12.* as we find in the Holy Scriptures; yea (with reverence be it spoken) God himself is bound by his promise; and if to any promise of his, an oath be superadded, (which in him is an appeal to some one of his Attributes, but implies no execration) the

*Heb. 6.* *Apostle* tells us they are *two immutable things*.

And as no man can be too great for such an obligation himself: so neither can any man *dispense* with it in others. Wherefore we may justly condemn

demon a corrupt custom used in some Countries, of superiors *dispensing* with their subjects oaths. Which if ever it can be done, must be in case of right by such oaths either given to them, or unjustly taken from them or others. And these cannot properly be called dispensations; at least not such as do denote any peculiar power in them; for if any thing by such oaths is given to them, who doubts but that they may recede from their own right, which any man else hath liberty to do? and such oaths as would take any thing unjustly from them or any others, would be void without a *dispensation*. Neither yet can it be denied, but that in other cases, so often as they are doubtful, men would do well to betake themselves to their own Clergy, or else to Doctors of the Law for advice and direction. But to suppose such persons able to *dispense* with Perjury, or to make void an oath, otherwise valid, in which their own right was not concerned; is to give them leave to *dispense* with and dispose of other mens rights, and to make void the Laws of God, as in other respects, so particularly about that sacred *bond*, which no cause (saving such limitations as we have already taken notice of) can justify the violation of.

Though there have been some (who are so well known that I need not name them) that have held it lawfull for the sake of *Religion* to break an oath; that is to say, to uphold *Religion* by taking away the main support, and by hindring the whole benefit of it; to dishonour God, to rob him of his Attributes, to profane his Holy Name, to break his



Commandments, to renounce Salvation; and all this for the sake of *Religion*.

But whatever others may say in some circumstances is lawfull to be done for their *Religion*, I hope none of us do suppose such a practice allowable for the sake of our own; which is in a very bad case, if that be the best expedient we can find to support it.

*Rom. 3. 8.* *We must not do evill, and if not any, then certainly not so great an evill, that good may come.* God stands not in need of our good, much less of our evil actions. Truth, as it doth not need, so neither will it admit the assistance of falshood to keep it up. If it did, it would acquire only a reproach and disesteem to it self: for men do disparage any cause which by such methods they endeavour to maintain. And 'tis utterly impossible that ever the true Religion should allow of such practises as overturn the foundations of all *Religion*.

Wherefore we are all of us obliged for the honour of our God, and of our Religion, for our own sake, and for the hope that we have of everlasting Salvation, when we have taken an oath to bind our Souls with a bond, not to break our word, but to do according to all that proceedeth out of our mouth; when we have vowed a vow unto the Lord not to neglect to pay it; for the Lord our God will surely require it of us.

*Numb. 30. 2.*  
*Deut. 23. 21.*

